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Deputy Commissioner
MIRANDA LEKANDER
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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

| | | |
|------------------------------|---|---|
| In the Matter of: |) | NMLS ID No. 255961 |
| |) | OAH No. 2016090261 |
| THE COMMISSIONER OF BUSINESS |) | |
| OVERSIGHT, |) | |
| |) | SETTLEMENT AGREEMENT |
| Complainant, |) | |
| |) | |
| v. |) | |
| |) | Hearing Date: March 2, 2017 |
| VIC HARBOYAN, |) | Time: 9:00 a.m. |
| |) | Location: Office of Administrative Hearings |
| Respondent. |) | 320 W. 4th Street, Suite 630 |
| |) | Los Angeles, California 90013 |
| |) | |
| |) | |

This Settlement Agreement (“Agreement”) is entered into between Vic Harboyan (“Harboyan”) and the Commissioner of Business Oversight (“Commissioner”) and is made with respect to the following facts:

RECITALS

A. On April 27, 2016, Harboyan filed an application for a mortgage loan originator (“MLO”) license with the Commissioner pursuant to the California Residential Mortgage Lending Act (“CRMLA”) (Fin. Code, § 50000 et seq.) (“Application”). The Application was submitted to the Commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing System and

Registry (“NMLS”).

B. On July 5, 2016, the Commissioner issued to Haryboyan a Statement of Issues, Notice of Intention to Deny License Application (“Notice”) and accompanying documents (collectively, “Administrative Action”). The Administrative Action was received by Harboyan’s counsel on July 12, 2016.

C. Harboyan submitted a timely written hearing request and statutory time waiver to the Commissioner on July 12, 2016.

D. The Commissioner finds that this action is appropriate, in the public interest, and consistent with the purposes fairly intended by the policy and provisions of this law.

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the parties agree as follows:

TERMS AND CONDITIONS

1. Purpose. This Agreement is entered into for the purpose of judicial economy and expediency, and to avoid the expense of a hearing, and possible further court proceeding.

2. Waiver. Harboyan agrees to withdraw his request for an administrative hearing made on July 12, 2016. Harboyan understands and acknowledges his right to an administrative hearing under the CRMLA in connection with the Application Harboyan hereby waives his right to a hearing, and to any reconsideration, appeal, or other rights which may be afforded pursuant to the CRMLA, the Administrative Procedure Act, the Code of Civil Procedure, or any other provision of law in connection with these matters.

3. Licensure. The Commissioner hereby grants Harboyan’s Application and agrees to issue a MLO license to Harboyan pursuant to Financial Code section 50513 (“MLO License”). In consideration for the issuance of the MLO License, Harboyan hereby understands and agrees that retention of the MLO License is predicated upon Harboyan’s compliance with and/or performance of the following duties, requirements, and restrictions set forth herein (“Requirements”):

a. Education. Harboyan shall take at least eight hours of continuing education offered by an NMLS-approved vendor annually for a period of three years, commencing upon execution of this Agreement.

1 b. Administrative Penalty. Harboyan shall pay to the Commissioner the amount of
2 \$5,000.00 ("Administrative Penalty") in one lump sum payment within 30 days of execution of this
3 Agreement. Harboyan shall remit the Administrative Penalty to the Commissioner via cashier's
4 check or Automated Clearing House deposit to the Department of Business Oversight, Accounting,
5 1515 K Street, Suite 200, Sacramento, California 95814. Failure to timely pay the Administrative
6 Penalty will be considered a violation of the terms of this Agreement.

7 4. Breach. Any one of the following shall be grounds for automatic revocation of the
8 MLO License for the period of five years from the Effective Date of this Agreement, as such date is
9 defined in Paragraph 15: (1) Harboyan's failure to fulfill each and every Requirement in the manner
10 set forth in the Agreement; (2) a finding by the Commissioner that Harboyan has violated or is
11 violating any provision of the CRMLA, or the California Finance Lenders Law, or any state or
12 federal law relating to his employment as a MLO; (3) any conviction of a misdemeanor or felony;
13 and (4) a finding by the Commissioner that Harboyan has committed any act of fraud, dishonesty or
14 deceit. Harboyan also understands and hereby waives all notice and hearing rights to contest an
15 immediate revocation of his MLO License initiated pursuant to this provision, which may be
16 afforded under the CRMLA, the Administrative Procedure Act, the Code of Civil Procedure, or any
17 other provision of law in connection with these matters.

18 5. Stipulation Coverage. The parties hereby acknowledge and agree that this
19 Agreement is intended to constitute a full, final and complete resolution of the Administrative
20 Action and that no further proceedings or actions will be brought by the Commissioner in
21 connection with these matters either under the CRMLA or any other provision of law, excepting
22 therefrom any proceeding or action if such proceeding or action is based upon facts not presently
23 known to the Commissioner or which were concealed from the Commissioner by Harboyan.

24 6. Resolution and Commissioner's Duties. The parties hereby acknowledge and agree
25 that this Agreement is intended to constitute a full, final and complete resolution of the
26 Administrative Action, excepting therefrom any proceeding or action if such proceeding or action is
27 based upon facts not presently known to the Commissioner. The parties further acknowledge and
28 agree that nothing contained in this Agreement shall operate to limit the Commissioner's ability to

1 assist any other agency (city, county, state or federal) with any prosecution, administrative, civil or
2 criminal, brought by any such agency against Harboyan based upon any of the activities alleged in
3 these matters or otherwise.

4 7. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
5 has had an opportunity to seek independent advice from its attorney(s) and/or representatives with
6 respect to the advisability of executing this Agreement.

7 8. Reliance. Each of the parties represents, warrants, and agrees that in executing this
8 Agreement it has relied solely on the statements set forth herein and has had the opportunity to seek
9 the legal advice of its own counsel. Each of the parties further represents, warrants, and agrees that
10 in executing this Agreement it has placed no reliance on any statement, representation, or promise
11 of any other party, or any other person or entity not expressly set forth herein, or upon the failure of
12 any party or any other person or entity to make any statement, representation or disclosure of
13 anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party
14 was in any way fraudulently induced to execute this Agreement; and (2) to preclude the
15 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
16 Agreement.

17 9. Full Integration. This Agreement is the final written expression and the complete and
18 exclusive statement of all the agreements, conditions, promises, representations, and covenants
19 between the parties with respect to the subject matter hereof, and supersedes all prior or
20 contemporaneous agreements, negotiations, representations, understandings, and discussions
21 between and among the parties, their respective representatives, and any other person or entity, with
22 respect to the subject matter covered hereby.

23 10. No Presumption from Drafting. In that the parties have had the opportunity to draft,
24 review and edit the language of this Agreement, no presumption for or against any party arising out
25 of drafting all or any part of this Agreement will be applied in any action relating to, connected to,
26 or involving this Agreement. Accordingly, the parties waive the benefit of Civil Code section 1654
27 and any successor or amended statute, providing that in cases of uncertainty, language of a contract
28 should be interpreted most strongly against the party who caused the uncertainty to exist.

11. No Coercion. Harboyan enters into this Agreement voluntarily and without coercion and acknowledges that no promises, threats or assurances have been made by the Commissioner or any officer, or agent thereof, about this Agreement.

12. Waiver. The waiver of any provision of this Agreement shall not operate to waive any other provision set forth herein, and any waiver, amendment and/or change to the terms of this Agreement must be in writing and signed by the parties.

13. Counterparts. The parties agree that this Agreement may be executed in one or more separate counterparts, each of which when so executed, shall be deemed an original. A fax signature shall be deemed the same as an original signature. Such counterparts shall together constitute and be one and the same instrument.

14. Governing Law. This Agreement shall be construed and enforced in accordance with and governed by California law.

15. Effective Date. This Agreement shall not become effective until signed and delivered by all parties.

16. Settlement Authority. Each signator hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Agreement.

17. Binding. This Agreement is binding on all heirs, assigns and/or successors in interest.

18. Notice. Any notices required under this Stipulation shall be provided to each party at the following addresses:

If to Respondent to:

If to the Commissioner to:

Marisa I. Urteaga-Watkins, Counsel
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, California 95814

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Dated: 1/19/17

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 1/17/17

By _____
Vic Harboyan